

**CERTIFICATE OF MAILING**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*Dolores DeCarine*  
Type or print name

*Dolores DeCarine*  
Signature

*5/18/05*  
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

BERNHARD MÜLLER

APPLICATION NO: 08/801,327

FILED: FEBRUARY 18, 1997

FOR: FIBRE-REACTIVE ANTHRAQUINONE

DYES, PROCESS FOR THEIR

PREPARATION AND THE USE THEREOF

Group Art Unit: 1751

Examiner: M. Einsmann

**Attention: Group Director**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR 1.181 (a) TO WITHDRAW HOLDING OF ABANDONMENT**

Sir:

Applicants have not received a Notice of Abandonment of the above-mentioned application.

However, the undersigned was orally informed on March 29, 2005 by PTO personnel that the PTO PALM system indicated that the above-mentioned application went abandoned about a year ago, but it did not indicate that a Notice of Abandonment of said application was ever mailed to applicants.

Applicants aver that said any determination of abandonment is in error as the above-mentioned application contained 2 allowed claims [see 37 CFR 1.197 (c) (1) and MPEP 1214.06 II.] and,

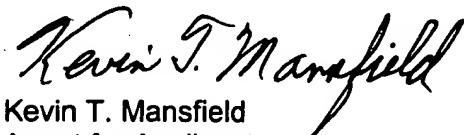
moreover, was placed fully in condition for allowance in an Amendment timely mailed on November 22, 2002 that canceled all but the 2 allowed claims.

In light of the remarks and the facts set forth in the accompanying Declaration and attachments, it is respectfully requested that the determination of abandonment be withdrawn and that the above-mentioned application be returned to the examiner for further action.

While all of the delay since September, 2002 is attributable to the PTO, if it is determined that a disclaimer of part of the additional term resulting from said delay is appropriate, notification of the undersigned is requested so that an appropriate terminal disclaimer may be submitted.

The Commissioner is hereby authorized to charge any fees required to Deposit Account No. 03-1935.

Respectfully submitted,



Kevin T. Mansfield  
Agent for Applicants  
Reg. No. 31,635

Ciba Specialty Chemicals Corporation  
Patent Department  
540 White Plains Road  
P.O. Box 2005  
Tarrytown, NY 10591-9005  
(914) 785-7127  
KTM20161P1

MAY 18 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF  
BERNHARD MÜLLER  
APPLICATION NO: 08/801,327  
FILED: FEBRUARY 18, 1997  
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DYES, PROCESS FOR THEIR  
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Group Art Unit: 1751  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION ATTESTING TO FIRST CLASS MAILING**

Sir:

I, Kevin T. Mansfield, an agent of record in the above-mentioned application, declare as follows in the matter of U.S. Patent Application No: 08/801,327.

- 1) That I have reviewed the records and the prosecution file of this application;
- 2) That, after an adverse decision by the Board of Appeals mailed on September 25, 2002, the above-mentioned application contained 2 allowed claims; hence, according to 37 CFR 1.197 (c) (1) and MPEP 1214.06 II., it should have been passed to issue with said claims independently of any action by the undersigned;
- 3) That, responsive to said adverse decision by the Board of Appeals, I timely filed an Amendment mailed on November 22, 2002 which placed the above-mentioned application fully in condition for allowance by cancelling all but the 2 allowed claims;

- 4) That I have attached hereto a true copy, without erasure or deletion, of said Amendment, designated "B", which bears my signature and is dated NOV 22 2002, along with the signature of my assistant, Lynn Girolamo, attesting to its proper first class mailing on the same date;
- 5) That I have attached thereto as well as a true copy, without erasure or deletion, of the return receipt post card bearing a date stamp by the PTO which confirms that the above mailing reached the addressee on Nov. 29, 2002;
- 6) That I have attached hereto a true copy, without erasure or deletion, of the PALM printout dated 4/23/2003 which accompanied a NOTICE UNDER 37 CFR 1.251 – Pending Application, to reconstruct the missing file of the above-mentioned application, which printout did not mention the above-mentioned Amendment;
- 7) That applicants' timely Response to the Notice dated 7/28/03 additionally included the above-mentioned Amendment, but not the return receipt post card;
- 8) That a Status Request was filed on January 25, 2005;
- 9) That, during a follow-up phone call on March 29, 2005, PTO personnel informed me that the missing file of the above-mentioned application had been found and that the papers of applicants' reconstruction had been merged with it. I was further informed on that date that above-mentioned application went abandoned about a year ago, but the PALM system did not indicate that a Notice of Abandonment of said application had ever been mailed to applicants;
- 10) That no Notice of Abandonment is present in the prosecution file of this application;
- 11) That no copy of the face of the prosecution folder accompanies this Declaration since, due to the lengthy prosecution history and space limitations, the last entry thereon is the Appeal Brief filed February 28, 2000;
- 12) That, since the PTO records for this application are inaccessible on Private PAIR, I learned for the first time on March 29, 2005 that that the above-mentioned application went abandoned about a year ago; hence this Petition and Declaration are being timely filed;

13) That all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this 18<sup>th</sup> day of May, 2005 at Tarrytown, NY.

Kevin T. Mansfield

Kevin T. Mansfield

20161DEC

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Lynn Girolamo  
Type or print name

Lynn Girolamo  
Signature

11/22/02  
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

BERNHARD MÜLLER

APPLICATION NO: 08/801,327

FILED: FEBRUARY 18, 1997

FOR: FIBRE-REACTIVE ANTHRAQUINONE

DYES, PROCESS FOR THEIR  
PREPARATION AND THE USE THEREOF

Group Art Unit: 1751

Examiner: M. Einsmann

Assistant Commissioner for Patents  
Washington, D.C. 20231

AMENDMENT

Sir:

This Amendment is being filed responsive to the Board of Appeals decision mailed on September 25, 2002, the response to which is being mailed within the shortened statutory period for response. It is requested that this amendment be entered to place the claims in condition for allowance.

No fee, petition, or certification is required. The Commissioner is authorized to charge any fee due, or credit any overcharge, as a result of this Amendment to Deposit Account No. 03-1935.

Please amend the above-identified patent application, without prejudice, as follows.

Case No.

4-20161/A/CONT/CPA

Application/Serial No.

081801,327

Mailing Date:

11/22/02

Due Date:

11/25/02

The Patent & Trademark Office acknowledges, and has stamped hereon  
the date of receipt of the items checked below:

- Amendment - Fee \$ \_\_\_\_\_
- Appeal Brief - Fee\$ \_\_\_\_\_
- Application Filing Papers - Fee \$ \_\_\_\_\_  
 PCT national stage  
 Provisional Application
- Assignment Recordation - Fee \$ \_\_\_\_\_
- Associate Power of Attorney
- Claim of Priority  
 Certified Copy(es)
- Declaration and Power of Attorney
- Declaration  Rule 131  Rule 132
- Foreign Filing license request
- Formal Drawings
- Information Disclosure Statement - Fee \$ \_\_\_\_\_
- Issue Fee Transmittal - Fee \$ \_\_\_\_\_
- Letter/Response
- Notice of Appeal - Fee \$ \_\_\_\_\_
- Petition for \_\_\_\_\_ - Fee \$ \_\_\_\_\_
- Petition for extension of time - Fee \$ \_\_\_\_\_
- Reply Brief
- Request for Oral Hearing - Fee \$ \_\_\_\_\_
- Request for Certification of Correction - Fee \$ \_\_\_\_\_



C-2259-65 6/96

KTM

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 U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

In re Application of:

Bernhard Muller

Application No.:

08/801,327

Filing Date:

2/18/97

Title:

Fibre-reactive anthraquinone dyes, process for their preparation and the use thereof

Direct to:

Box Reconstruction TC 1700 - ATTN: Valarie R. Reid  
 United States Patent and Trademark Office  
 Washington, DC 20231

### NOTICE UNDER 37 CFR 1.251 - Pending Application

Statement (check the appropriate box):

- The copy submitted with this reply is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.
- The copy of the paper(s) listed in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record of such paper(s).
- The papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records.
- Applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

Date

7/28/03

Signature

JoAnn Villamizar

Typed or printed name

A copy of this notice should be returned with the reply.

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.